**New Hampshire Attorney General Kelly A. Ayotte   
Internet Crimes Unit   
*Cyberbullying Background Paper   
With Attached Policy Letter and Letter to Parents*February 2008**

**I. Purpose of this School Policy**Bullies have always existed, but under the current technologically oriented society we live in today, *cyberbullying* is becoming more prevalent, and schools are dealing with cyberbullying on a large scale now. Emotional harm from cyberbullying may be greater than in-person bullying because the harm can be ongoing through the day and night. Any material posted can be widely disseminated and difficult or impossible to remove. The bully may be one anonymous person, or he or she may involve others in the bullying. If it happens, teens are reticent to tell adults about online concerns, but the problem is that they may not know how to stop cyberbullying themselves.   
When students are emotionally harmed as a result of cyberbullying, they may present a danger to themselves and others, and this potentially could disrupt the school’s goals of teaching children and keeping them safe. School Boards in the State of New Hampshire are obligated to create safe environments for learning, and if cyberbullying is reported, it is incumbent upon the school to act promptly and proportionately to the problem.   
This policy is designed to educate on the issues of what cyberbullying is and the problems it creates; to give guidance to schools on ways to prevent it in the first instance; how to identify when discipline is appropriate; and how to discipline within the constraints of the law.   
Schools may want to implement this policy by updating their current policy on Pupil Safety and Violence Prevention.   
II. **Definition**“Cyberbullying” is being cruel to others by sending or posting harmful material or engaging in other forms of social cruelty by using the Internet or other digital technologies.   
Cyberbullying can include:   
• Flaming — online “fights” using electronic messages.   
• Harassment — repeatedly sending offensive messages.   
• Denigration — sending or posting material about a person to damage his or her reputation or friendships.   
• Impersonation — posing as a person and posting material to make the person look bad, get in trouble, or danger, or damage that person’s reputation or friendships.   
• Outing and trickery — sharing someone’s’ secrets or embarrassing information or images online or tricking someone into revealing such information and then sharing.   
• Exclusion — intentionally excluding someone from an online group.   
• Cyberstalking — repeatedly sending threatening and intimidating messages or engaging in other online activities that make a person afraid for his or her safety.   
111. Statistics   
• 42% of kids have been bullied while online. 1 in 4 have had it happen more than once.   
• 35% of kids have been threatened online. Nearly 1 in 5 have had it happen more than once.   
• 21% of kidshave received mean or threatening e-mail or other messages.   
• 58% of kids admit someone has said mean or hurtful things to them online. More than 4 out of 10 say it has happened more than once.   
*• 53%* of kids admit having said something mean or hurtful to another person online. More than 1 in 3 have done it more than once.   
*• 58%* have not told their parents or an adult about something mean or hurtful that happened to them online.2   
**IV. Case Studies**In 2007, the Wall Street Journal reported a story about an eighth grade girl who was bullied by her peers through a website called “Kill Kylie Incorporated,” which featured crude insults under the heading “She’s queer because... .“ The bullying was so traumatizing that Kylie was forced to change schools and reported she still had “emotional damage” from the experience two years later in tenth grade.3   
In 2006, in Missouri, 13-year-old Megan thought she had made a new friend in, cyberspace when a cute teenage boy named Josh contacted her on MySpace and began exchanging messages with her. Megan, who suffered from depression and attention deficit disorder, corresponded with Josh for more than a month before he abruptly ended their friendship, telling her he had heard she was cruel. Other postings included ones that said “Megan is fat” and “Megan is a slut.” The next day Megan committed suicide by   
**2** I-SAFE. *Cyber Bullying: Statistics and Tips.* Retrieved February 6, 2008.   
(http://www.isafe.org/channels/sub.php?ch=op&sub\_id=media\_cyber\_bullying)   
Wall Street Journal. *Schools Act to Short-Circuit Spread of’Cyberbul1ying’* Retrieved February 6, 2008.   
(http://on1ine.wsj.com/pub1ic/artic1e/SB116960763498685883-   
OOi2mUIBGJbaClYf2saT\_MY8Vc8\_20070222.html?mod=tff\_main\_tff\_top)

hanging herself. Her family learned later that Josh never actually existed; he was created by members of a neighborhood family that included a former friend of Megan’s.4   
Unfortunately, such cases are becoming commonplace in and out of schools, where anonymity and simplicity of the Internet creates a convenient venue for malicious attacks on students and teachers alike.   
V. Legal analysis   
The First Amendment of the Constitution guarantees freedom of speech, however, that right is not unfettered. Student speech may be suppressed under certain circumstances. What may be suppressed depends if the speech occurs on school grounds with school equipment, or if the speech occurs off school grounds.   
Schools clearly have the right to impose educationally based restrictions on free speech when the speech occurs on campus or with school equipment.5 Because of the “special characteristics of the school environment” the U.S. Supreme Court recognizes that school officials may prohibit student speech when it would “substantially interfere with the work of the school or impinge on the rights of other students.”6 This means that. school districts may apply educationally based restrictions on any student speech that occurs through the school district’s Internet system and computers.7   
Although the U.S. Supreme Court has not explicitly held that schools may also apply formal discipline for off-campus speech,8 many lower courts have.9 The test used for off-campus speech appears to be the same as on-campus speech, and any discipline must be because the speech would substantially interfere with the work of the school or impinge on the rights of others.   
Fox News.com. *Mom: MySpace Hoax Led to Daughter’s Suicide.* Retrieved February 6, 2008. (http://www.foxnews.comlstory/0,2933,3 1201 8,00.html)   
*Tinker v. Des Moines Independent Community School Dist.,* 393 U.S. 503 (1969).   
**6** Respondent’s brief filed by the ACLU in *Morse v. Frederic/c* 127 S.Ct. 2618 (2007) at p. 10, citing *Tinker,* at 509. Retrieved February 6, 2008   
(http://www.aclu.ora/pdfs/scotus/rnorsefrederick .respondentsbrief.pdf) *(Morse* holds that school administrators may prohibit off-campus speech at a school-approved activity when the speech promotes illegal drug use).   
**‘** *Hazelwood School District v. Kuhlmeier,* 484 U.S. 260 (1988) (school can regulate contents of school newspaper that is used as a supervised learning experience for journalism students and not open to indiscriminate use).   
*See Morse v. Frederick;* above.   
*See J.S. ex rel. H.S. v. Bethlehem Area School District,* 757 A.2d 412 (2000) (school could discipline student for creating a web site on home computer that threatened school officials because); *Donovon v. Ritchie,* (68 F.3d 14 (1” Cir. 1995) (school could discipline student who, while off campus, created a list of students with derogatory comments, and the list ended up on the campus); *Fenton v. Stear,* 423 F.Supp. 767 (W.D.Pa. 1976) (not disciplining student who called a teacher lewd name while off campus could lead to “devastating consequences in the school”); *But see Beussink By and Through Beussink v. Woodland R-IV Sch. Dist.,* 30 F.Supp.2d 1175 (E.D.Mo. 1998) (school cannot discipline student for creating web site at home that is critical of the school if discipline is simply because principal is upset by content but the site does not cause any fear of disruption).

**VI. Questions School Administrators Should Ask Themselves Before Discipline:**• What exactly is the speech?   
• How did you find out about the speech?   
• Is it directed to or about another student or a school official?   
• Is the speech lewd or defamatory?   
• Is it hateful or mean?   
• Does it discuss or portray violence?   
• Does it appear intended to humiliate or insult another?   
• Is the speech repeated more than once?   
• . Does the speech encourage others to get involved in the hate/violence?   
• Has the speech disrupted the classroom or any aspect of the school?   
• Do you think that it is likely that the speech *will* disrupt the school?   
• Has anyone told you that the speech has affected them?   
• Even if no one has said so, do you think it is likely that the person about whom the speech is directed *would* be affected adversely by the speech?   
• Would anyone be adversely affected by the speech, even if it is not directed specifically at them?   
• Is the speech simply critical of the school or its teachers?   
• Who created the speech?   
• How do you know who it created it?   
• Where did the speech occur?   
• If it occurred off-campus, has anyone seen the speech while on-campus?   
• Have you saved copies of the speech? (i.e. print out the website)   
• Can you first informally discipline the student?   
• If you decide to formally discipline, what is your school policy regarding discipline?   
• Before disciplining student, can you pass the *Tinker* test and articulate how the speech would cause a substantial interference at the school?   
• Or can you articulate how it impinges on the rights of others?   
• Is the proposed discipline proportionate to the threat of interference?   
Attachments:   
A. Proposed Policy Letter for Schools   
B. Proposed Letter to Parents from Schools

**ATTACHMENT A   
PROPOSED POLICY LETTER FOR SCHOOLS**This District is committed to providing a positive and productive learning and working environment. Any form of harassment using electronic devices, commonly known as “cyberbullying,” by students, staff or third parties is prohibited and will not be tolerated in the district. Cyberbullying is the use of any electronic communication device to convey a message in any form (text, image, audio, or video) that defames, intimidates, harasses or is otherwise intended to harm, insult or humiliate another in a deliberate, repeated or hostile and unwanted manner. In addition, any communication of this form which disrupts or prevents a safe and positive educational or working environment may also be considered cyberbullying. Students and staff will refrain from using personal communication devices or district property to harass or stalk another.   
The district will take any report of cyberbullying seriously and will investigate reports promptly. Students are encouraged to report an incident immediately to a teacher or principal, who will take appropriate action. Students who make a report should also preserve evidence of the cyberbullying. For example a student may save or bring a copy of an email, text message, picture or other electronic transmission that the student believes was intended to harm, insult, or humiliate.   
Students whose behavior is found to be in violation of this policy will be subject to loss of privileges, discipline, up to and including expulsion. Staff whose behavior is found to be in violation of this policy will be subject to discipline, up to and including dismissal. Third parties whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the superintendent or Board. Any perceived criminal conduct will be reported immediately to local law enforcement.

**ATTACHMENT B   
PROPOSED LETTER TO** PARENTS   
DATE   
SCHOOL BOARD   
LOCAL SCHOOL   
RE: Cyberbullying   
Dear Parent or Guardian:   
As you may already know, there are many Internet sites and chat rooms (i.e. MySpace, Facebook, Xanga, MSMSpaces) which have become a popular social networking destination for millions of children nationwide. Unfortunately, according to law enforcement records, they are also popular with sexual predators, cyber bullies, and con artists.   
Everything posted on most of these sites can be seen by anyone with Internet access. Often these sites have privacy features which allow a teen to limit access only to people they know, however, these privacy features are not foolproof. When unsuspecting students post personal information, they become easy targets for predators — people who can use this information to identif’, locate, and contact them.   
Cyberbullying is also an increasing issue. Cyber bullies — generally ages 9— 15, often use the instant-messaging feature of these sites to chat or post hurtful or threatening messages online. Such bullying can be very damaging to children.   
We encourage you to be aware of these chat rooms and search for your children by name, e-mail address, etc. If they’re registered users, you can visit their accounts, just like anyone else (for example conduct a Google search using your child’s name and screen name). You can also just ask your children if they are using these sites and go online with them, explaining the types of things that they should or should not post. Everyone knows that often we e-mail in haste, and that taking a minute to cool down or think before hitting “send” is always a good idea. Below are some questions you can cover with your children, explaining that they should ask themselves these questions -   
before posting   
• “Is this kind and respectful to others?”   
• “How would I feel if someone did or said the same thing to me, or to my best friend?”   
• What would my mom, dad, or other trusted adult think or do?”   
‘° Willard, N (2007) ***Cyber-Safe*** *Kids, Cyber-Savvy Teens: Helping Young People Learn to Use the Internet Safely and Responsibly.* Jossey-Bass.

• “Would I violate any agreements, rules, or laws?”   
• “How would I feel if my actions were reported on the front page of a newspaper?”   
• “What would happen if everybody did this?”   
• “Would it be okay if I did this in Real Life?”   
• “How would this reflect on me?”   
• “Does it just feel ‘wrong’ to do this? If so, I should not do it.”   
There are other things that you, as the parent, can do to help keep you child safe while online. These include:   
• Keep computers with web access in public parts of the house, such as the living room.   
• Set Internet rules and guidelines and post the rules near the computer or have a contract with your child about the use of the computer.   
• Decide whether your children may use MySpace.com or similar social- networking sites.   
• Know your child’s screen name and what they have listed on their profile.   
• Let your children know that you will be reviewing their account for appropriate content and appropriate sites and then periodically review your children’s Internet (history) accounts.   
• Talk with your children — calmly. While online communication is a common part of preteen and teen social life, many children are unaware of its dangers.   
To learn more about Internet safety, visit the Attorney General’s Internet Crimes Unit website at www.connectwithyourkids.org., or call the Internet Crimes Prosecutor, Lucy H. Carrillo, at 603-271-3673. Other sites with helpful information on Internet safety and cyberbullying are www.isafe.org; www.benetsafe.org; www.wiredsafety.org; http://cyber-safe-kids.com, and http://staysafeon line.or.   
Sincerely,   
NAME   
PRINCIPAL OF LOCAL SCHOOL   
NAME   
LOCAL SCHOOL DISTRICT   
Lyonel B. Tracy   
Commissioner, Department of Education   
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